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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/686,298

10/15/2003

G. Gary Gochanour

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EXAMINER

LEE, LAURA MICHELLE

ART UNIT

PAPER NUMBER

3724

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	Application No. 10/686,298	Applicant(s) GOCHANOUR, G. GARY	
	Examiner Laura M. Lee	Art Unit 3724	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 04 June 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
**BOYER D. ASHLEY**  
**SUPERVISORY PATENT EXAMINER**

Continuation of 11. does NOT place the application in condition for allowance because: the Applicant's arguments are not persuasive. The Applicant contends several reasons as to why the Stephenson reference ('532) does not anticipate claims 1,5,6 and 10-12. The Applicant maintains that 1). The Examiner's interpretation of "interlocked chain" is overly broad; 2). The Stephenson ('532) film is not being used as a hand covering as recited in the claims 3). The Stephenson ('532) does not teach a form configured to be grasped through the film; 4). The Examiner's interpretation of "either" as it applies to "a set of interlocking chains or opposing belts on either side of the housing" is incorrect; 5). The Stephenson reference does not disclose an adhesive film facing outwardly such that the film temporarily adheres to the user's hand.

Regarding Applicant's assertion that the Examiner's interpretation of "interlocked chain" is overly broad, and that it would be unreasonably to consider the Stephenson's series of perforations a "set of interlocking chains" is not found persuasive. As evidenced by the disclosure of Engelhardt et al (U.S. Patent 4,112,761), wherein a similar set of perforations on a sheet of paper, 38, is regarded a "chain of perforations" (Figure 1; column 3, lines 49-51), it is therefore argued that the Examiner's interpretation that the Stephenson ('532) perforations as a "chain" is not unreasonable as one with ordinary skill in the art would have understood the series of perforations to have comprised a "chain" of perforations. Furthermore, it is noted that Fisher et al. (U.S. Patent 5,988,882) (see claim 4) also corroborates this argument as they disclose a bag with "chain-style perforation pattern."

In response to Applicant's second contention that that the Stephenson reference does not teach a "roll of thin, flexible film having opposite sides edges to be used as a hand covering", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. The argument that Stephenson's film (backing sheet) is thrown away and is not used as a hand covering is not persuasive as it is still capable of being used as a hand covering.

In response to Applicant's third contention that that the Stephenson ('532) reference does not teach a form configured to be grasped through the film, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

In regards to the Applicant's fourth contention that the Examiner has not interpreted the limitation of "on either side of the housing" to imply that the set of interlocking chains or opposing belts are on both sides of the housing, it is further noted that the Applicant has admitted in their response (see page 4, lines 3-4) that the limitation is broad enough to read on "one, the other, or both." The Applicant's argument that they intended the limitation "either" to mean "both" is not persuasive as any of the above interpretations would be acceptable. If the Applicant had intended for the interpretation of the set of chains or belts to be considered on both sides of the housing, the Applicant should claim "on both/each sides of the housing" rather than "on either side of the housing," since although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to Applicant's fifth contention that that the Stephenson ('532) reference does not disclose an adhesive film facing outwardly such that the film temporarily adheres to the user's hand, it is noted that Stephenson does disclose an adhesive film (26). In as much as there are no limitations defining the "outwardly" direction, relative to another direction, the Stephenson adhesive faces outwardly away from the backing sheet (10).